

May 4, 2007

BACKGROUND: MISSISSIPPI RIVER CRITICAL AREA

The Mississippi River Corridor Critical Area, which runs 72 miles from Ramsey to Hastings, was established in 1976 by Governor's Executive Order. It requires the adoption of local plans and regulations to manage the corridor consistent with its natural characteristics and existing development and according to the standards in the Executive Order. The Executive Order recognized that the River Corridor has many functions and resources, including transportation, commerce, recreation, historical and cultural sites, scenery, urban development and the natural environment.

Saint Paul adopted a comprehensive plan for the Mississippi River Corridor in 1981, followed in 1982 by River Corridor overlay zoning districts. The overlay zones incorporated the previous floodplain regulations and added new overlay zones for river bluff neighborhoods. Overlay districts add regulations that go beyond the normal citywide underlying zoning, and the more restrictive provision governs.

An updated Mississippi River Corridor Plan was adopted by the City in 2002. In 2004, the City Council created a task force to recommend amendments to update the Critical Area zoning regulations as proposed in the 2002 plan. The task force was not charged with creating a vision for the Critical Area. That had already been done by the *River Corridor Plan*, MNRRA's *Comprehensive Management Plan*, the *Saint Paul on the Mississippi Development Framework*, and a half-dozen small area plans that the City Council had approved along the river.

Saint Paul's Mississippi River Critical Area Task Force worked for over a year to complete a draft of zoning amendments for public review. That draft was published in April of 2006. Then the task force met with affected public agencies, district councils, and major property owners. The task force held a general public meeting on Harriet Island. Notice of the meeting was sent to all of the four thousand property owners in the Critical Area. In response to the public comments, the task force revised and refined several of its recommendations.

The City Council referred the Critical Area Task Force's recommendations to the Planning Commission, which has a legal responsibility to review amendments to the Zoning Code and make recommendations to the Mayor and the City Council. The Planning Commission asked the City staff for any staff recommendations that are different from the task force's.

**SUMMARY OF MISSISSIPPI RIVER
CRITICAL AREA TASK FORCE RECOMMENDATIONS
and
REVISIONS TO THEM PROPOSED BY CITY STAFF**

The Saint Paul Critical Area Task Force published its recommendations in July 2006. The ten recommendations below are taken from their Executive Summary. City staff agrees with most of the task force's recommendations. The boxes below the recommendations give the City staff's recommendations for revisions or refinements of the task force's recommendations. On most of these points, the task force considered the City staff's recommendations and did not agree with them. The Planning Commission has taken no position on these points of disagreement and wants to hear more from the public before making its recommendation to the Mayor and the City Council.

- 1. Separate Floodplain Management and Critical Area regulations.** Floodplain management regulations, which are designed to minimize flood losses, are almost entirely dictated by state and federal requirements. In the new River Corridor Zoning Ordinance, Floodplain Management will be separated from Critical Area regulations and each section will have its own overlay maps. Property in the floodplain will be regulated by both Floodplain Management and Critical Area Overlay Districts, as well as normal city underlying zoning.
- 2. Use all four Critical Area zoning districts provided in the Executive Order designating the area:** The task force proposal for overlay zoning maps can be described as follows: CA1 Rural Open Space for the Pig's Eye Lake area; CA2 Urban Open Space for large river parks and the Highwood neighborhood; CA3 Urban Developed for other established residential neighborhoods; and CA4 Urban Diversified for areas with a mix of commercial, industrial and residential uses. Upstream from the new Victoria Park housing development (the old Koch-Mobil site), land is proposed to be CA3 Urban Developed, but industrial land uses would be permitted at the Ford plant on the east side of Mississippi River Blvd., the Crosby Lake Business Park, and other existing industrial sites between Rankin Street and I-35E.

City Staff's Recommended Revisions: (a) CA4 Urban Diversified instead of CA3 Urban Developed for area between Rankin Street and Otto Avenue so that the mix of land uses is regulated by Saint Paul zoning, and industrial uses would be permitted accordingly, not as special exceptions; (b) Leave the Ford Plant site on the east of Mississippi River Blvd. as "undesignated" until the planning process for the site is finished, probably in 2008.

- 3. Increase protection of riverbanks and wetlands.** Within 100 feet of the river, prohibit structures and require restoration of a natural shoreline buffer. Except downtown, new commercial and industrial development in the floodplain or within 300 feet of the river must have a relationship to the river or need a riverfront location.

City Staff's Recommended Revisions: Allow also for park buildings within 100 feet of the river subject to a conditional use permit from the Planning Commission.

4. **Increase protection of bluffs and steep slopes.** Redefine “*bluffs*” to be any slope higher than 16 feet and steeper than 1 foot rise over a distance of 5.5 feet (18% slope). Prohibit structures, grading and filling within 40 feet of the top of a bluff, or within 15 feet of the toe of a bluff, or on “*very steep slopes*” (higher than 9 feet, steeper than 18%). Prohibit all but one-family structures on “*steep slopes*” higher than 6 feet and steeper than 1 foot rise over a distance of 8.3 feet (12% slope). In the CA1 and CA2 districts, including Highwood, structures must be set back from the top of a *very steep slope* a distance equal to the combined heights of the slope and the structure, to a maximum of 40 feet. Under the existing zoning regulations, a significant number of structures are nonconforming with regard to setbacks from bluffs and slopes. With the proposed regulations there will be an increase in the number of dimensionally nonconforming structures (while being conforming land uses). Such structures can be enlarged in ways that do not increase their nonconformity, and if destroyed, can be replaced within one year.

City Staff's Recommended Revisions: (a) Change to minimum height for “*bluffs*” from 16 feet to 25 feet to be more similar to existing City regulations and consistent with the state definition for *bluff* in DNR's shoreland and floodplain rules; (b) On “*steep slopes*” continue to permit institutional, park, and multifamily buildings, not just single-family houses.

5. **Add to regulations on grading, filling and dredging** to minimize site alteration and require erosion and sediment control according to best management practices. Rehabilitation slopes must be stabilized with plant materials and not exceed a 1 foot rise over a distance of 4 feet (25% slope) and cannot exceed 2:1 (50% slope). Dredging for river navigation is regulated by state and federal agencies, but for other purposes will also be regulated by the City.

City Staff's Recommended Revisions: Delete local regulation of dredging. The City is always consulted by state and federal regulators, but the City doesn't have the expertise to regulate dredging.

6. **Strengthen regulations regarding management of vegetation** to enhance the scenic and natural qualities of the River Corridor and to prevent erosion. For building, grading or fill permits, the City will require an inventory of existing trees larger than three inches in diameter and areas of native shrubs. City staff, using DNR's surveys, will screen permits to make sure that threatened or endangered plant and animal species are not affected. Vegetation removed due to development must be replaced elsewhere on the site with native species or native cultivars. If this is not possible, replacement vegetation can be planted elsewhere in the Critical Area.

City Staff's Recommended Revisions: (a) Do not require tree inventories or replacement plans in the CA3 Urban Developed District, which is comprised of residential lots in neighborhoods with grid streets and rectangular blocks; (b) Tree inventories should include trees that are six inches or larger in diameter, not three inches and larger; (c) Add more specificity to the tree replacement standards, similar to the existing Highwood Tree Preservation Overlay District; (d) Impose tougher requirements for canopy trees for commercial and industrial properties in CA4 on the river flats.

7. **Increase protection of water quality** with requirements to minimize rate and volume of stormwater runoff, and to direct runoff across vegetated areas before going to a storm sewer. To protect bluffs and very steep slopes, prohibit stormwater management facilities on them and within 40 feet of a bluffline.

City Staff's Recommended Revisions: (a) Modify the requirement for runoff to go to vegetated area with a "wherever feasible" clause in recognition that most driveways in the city and some parking lots are designed to drain to the public curbs and gutters, not to vegetated areas; (b) As an exception, allow stormwater management facilities within the prohibited areas if needed to serve an existing development or correct an existing erosion problem.

8. **Establish more height limits for buildings:**

CA1 and CA2 Open Space Districts.....30 feet

CA3 Urban Developed and CA4 Urban Diversified Districts:

 Within 200 feet of the river.....36 feet

 Within 500 feet of the river.....48 feet

 Within 300 feet riverward of a bluff toe.....48 feet

 Within 100 feet landward of a bluff line.....36 feet

Elsewhere in CA3 Urban Developed District.....48 feet

Elsewhere in CA4 Urban Diversified District.....60 feet

There are special height limits below Kellogg Mall and below the Science Museum. Height limits for the West Side Flats and the Upper Landing closely approximate existing development agreements made by the HRA. (Existing Critical Area zoning only has a 40 foot height limit, which only applies to the Urban Open District.)

City Staff's Recommended Revisions: Provide exceptions from Critical Area height limits for three particular areas, thus leaving authority for height regulations in the hands of the City Council and local zoning. The areas are: (a) 740 S. Mississippi Blvd., so the high-rise won't be nonconforming under zoning; (b) Victoria Park (formerly called Koch-Mobil) where the height limits proposed by the Critical Area Task Force conflict with the City's adopted Victoria Park Master Plan; (c) the ADM elevator site, where the height limits proposed by the Critical Area Task Force conflict with the City's adopted Fort Road Development Plan.

- 9. For subdivision of property, require dedication of land for parks, open space, and river access:** 12% of the land must be given to the City, or a fee in lieu of land dedication equal to the value of the land that would otherwise be dedicated (not to exceed \$3000 per dwelling unit).

City Staff's Recommended Revisions: Use the City's recently adopted citywide parkland dedication ordinance; do not adopt a separate, different parkland dedication ordinance for the River Corridor.

- 10. Strengthen requirements for approval of site plans, conditional use permits, and variances.** Applications will require more detail on soil types, topography, and vegetation.

ADOPTION PROCESS AND FURTHER PUBLIC REVIEW

The Planning Commission has scheduled a public hearing on the Critical Area Overlay Zoning Regulations on June 15, 2007, at 8:30 a.m., in City Hall, 15 W. Kellogg Blvd., in Room 40. The Planning Commission will consider the recommendations of the Critical Area Task Force, the City staff, and all of the public testimony and then will make its recommendations to the Mayor and City Council. The City Council will also hold a public hearing before acting on the zoning amendments. Then the zoning amendments will be sent to the Metropolitan Council for their comments and to the DNR for approval. New Critical Area regulations do not go into effect until they have been approved both by the City and by the DNR.

FOR MORE INFORMATION

Copies of the report of the Mississippi River Critical Area Task Force, including the text of the proposed zoning code amendments, and maps showing the proposed Critical Area Overlay Zoning Districts, blufflines and steep slopes are on the City web site, at www.stpaul.gov/depts/ped. The City staff's recommended revisions to the task force's draft ordinance are also posted there. Questions may be directed to the city planners at the Saint Paul Department of Planning and Economic Development who are working on Critical Area issues: Larry Soderholm (larry.soderholm@ci.stpaul.mn.us, 651-266-6575) and Al Torstenson (allan.torstenson@ci.stpaul.mn.us, 651-266-6579).